REMARKS

Claims 1-9, 11 and 19-24 remain in this application. Claims 1 and 6 have been amended. Claims 21-24 have been added. By these amendments, no new matter has been added.

The Examiner rejected Claims 1-9, 11 and 19-20 under 35 U.S.C. § 112, second paragraph, as being indefinite. These rejections are respectfully traversed. The Applicant has carefully selected the language of the claims to be as clear as possible, and believes that Claims 1-9, 11 and 19-20 are sufficiently definite. The Examiner's specific remarks concerning the language of Claim 1 are addressed below.

The Examiner argued that the phrase "a method for transacting with traffic" in the preamble is indefinite. The preamble is merely intended as an aid to understanding the claims, and is not intended to define any limitations of the invention. Nonetheless, the preamble has been amended to delete this phrase. The preamble should therefore be regarded as sufficiently definite.

The Examiner also argued, in essence, that the phrases "requests for information" and "state information" in Claim 1 and elsewhere are not clearly distinct. Although Applicant believes that the distinctions between these terms were already readily apparent, "requests for information" has been shortened to "requests," to remove any possibility of confusion between these terms.

The Examiner further argued that it is unclear whether the "requests" recited in Claim 1 originate from the network resource or some other source. Applicant again respectfully disagrees. First of all, omitting to state the origin of the requests would inject no indefiniteness into the claim. But in fact, Claim 1 expressly states that "the traffic comprises requests originating from the network resource." Thus, the Examiner's argument appears to lacks any reasonable foundation. If otherwise, further clarification of this remark is respectfully requested.

Finally, the Examiner argued that "receiving traffic over the network" is indefinite,

because whether or not "traffic" takes its antecedent basis from the preamble cannot be determined. Although it should have been sufficiently clear that the first instance of "traffic" in the body of the claim did not take any antecedent basis from the preamble, the preamble has nonetheless been amended to remove any possibility of confusion.

In view of the foregoing, Claims 1-9, 11 and 19-20 are deemed sufficiently definite, and these rejections should therefore be withdrawn.

Before addressing the rejections to the claims based on the prior art, certain novel aspects and benefits of the invention are discussed below. The invention provides a novel method of transacting using network traffic as a direct medium of exchange. As acknowledged in the specification, the desirability of traffic is understood in the art, and various methods are known for increasing traffic to a Web site, such as banner ads containing a hyperlink to the Web site, or the distribution of other advertising, including printed advertising, with URL or other link information. Such methods should not be confused, however, with facilitation of a barter transaction in which at least a right to use a network resource is exchanged for traffic.

The invention concerns a specific, computer-implemented method for a barter transaction, using traffic as a medium of exchange. In an embodiment of the invention, traffic is exchanged for a network resource that is interoperable with a wide area network and comprises computer hardware or software. Examples of network resources include routers, servers, client computers, operating software, application software, including but not limited to "applets," programming languages or scripts, and copyrighted content desired by a user. Such resources may conveniently be configured to communicate information used in the performance of the method, thereby expediting the underlying barter transaction.

The network resource is configured to originate user requests for information that comprise a redirection code. As defined by Claim 1, a redirection code comprises sufficient information to determine a traffic generator to be credited for the traffic. Using the redirection code, a specific traffic generator account is credited based on the volume

of traffic with the redirection code. Meanwhile, the account is debited based on use of the network resource, completing the accounting for the barter transaction. Advantageously, traffic that includes a redirection code can be selectively directed to any information (e.g., web page or advertisement) specified by the sponsor for the network resource, which the sponsor may change whenever desired.

Thus, the invention provides a versatile method for directly exchanging network traffic for network resources, that overcomes the limitations of the prior art. These limitations include, for example, the lack of a traffic generator account that is credited for traffic originating from a network resource and debited depending on use of the network resource by network users. The specific deficiencies of the cited reference are discussed below.

The Examiner has withdrawn the former rejections under 35 U.S.C. § 102(b) or 35 U.S.C. § 103(a) over Hoyt, without explanation. Applicant's arguments traversing these rejections therefore appear to have been persuasive.

The Examiner has now rejected Claims 1-9, 11, and 19-20 under 35 U.S.C. § 102(b) as anticipated by Wexler or Ronen. These rejections are respectfully traversed. In a nutshell, Wexler and Ronen fail to disclose or suggest both crediting and debiting a traffic generator account as defined by Claim 1, as further explained below. Nor do these references pose any bar to patentability of new Claims 21-24.

Wexler discloses using a third-party accounting service to keep track of traffic generated by banner ads. (Abstract; 4:54-61.) Its purpose is to provide an "unbiased, readily available source of statistical/accounting information for Internet advertisers and advertising publishers." (2:30-34.) Wexler is not at all concerned with facilitating a barter transaction using traffic as a medium of exchange. More to the point, Wexler does not read on Claim 1, and therefore cannot anticipate it under § 102(b), when giving the claim terms their broadest reasonable interpretation.

The Examiner has not clearly explained the pertinence of Wexler, leaving the Applicant to guess how it is being applied. Applicant surmises that the Examiner is

construing "network resource" to read on the banner ads of Wexler. But Wexler merely discloses generating a request for information when a banner ad is clicked, which is received by the third-party accounting service, counted, and then redirected to the advertiser's web site. Perhaps the Examiner considers the counting of click-throughs and the accumulation of the count in a database to read on the steps of "determining a credit amount" and "crediting the credit amount." If not, further clarification from the Examiner is requested.

If so, however, Wexler discloses nothing that might fairly read on the steps of "receiving state information" and "debiting the traffic generator account" as defined by Claim 1. Clearly, "state information" and "requests for information" refer to distinct subjects, both according to their plain meaning and within the context of Claim 1. Likewise, the "debiting" and "crediting" steps must be fairly understood as referring to distinct and separate actions. So keeping track of banner ad click-throughs cannot read simultaneously on both "receiving state information" and "receiving traffic"; nor both on "crediting" and "debiting." Wexler fails to disclose or suggest any other actions that might be said to read on these elements of receiving state information and debiting a traffic generator account accordingly. Failing to disclose every element of Claim 1, Wexler therefore cannot anticipate Claim 1 under 35 U.S.C. § 102(b).

Likewise, the Examiner did not clearly explain the pertinence of Ronen, which is being separately applied. Ronen discloses a method for providing a centralized billing platform, whereby a consumer and merchant may complete a transaction without requiring the consumer to give payment information, such as a credit card, to the merchant. (2:5-66.) The billing platform receives transaction and user identification information from an Internet service provider (i.e., a merchant), and verifies the information though an Internet access provider. (Id.) The user sets up an account with the billing platform in advance, designating a payment method to be used for various different service providers. (Id.) Ronen is not concerned with facilitating a barter transaction, and cannot be said to anticipate any of the claims at issue. And unlike

Wexler, Ronen is not concerned with generating or keeping track of network traffic at all.

The pertinence of Ronen is not apparent. For one thing, Ronen fails to disclose receiving traffic that includes redirection codes as defined by Claim 1, or redirecting traffic to a target designated by a sponsor as defined by Claim 2. Ronen is simply unconcerned with redirecting of traffic. Likewise, Ronen fails to disclose determining a credit amount based on a measure of traffic volume with the redirection code, and crediting the credit amount to the traffic generator account, as defined by Claim 1. Failing to disclose all of the elements of Claim 1, Ronen therefore cannot anticipate it under 35 U.S.C. § 102(b).

Dependent Claims 2-9, 11 and 19-24 contain numerous additional elements that are not disclosed by either Wexler or Ronen, and are therefore independently allowable. The Examiner did not specifically identify any elements of the dependent claims as anticipated or made obvious by Wexler or Ronen. Thus, the Examiner has not set forth an adequate *prima facie* basis for rejecting the dependent claims, which should therefore be allowed. In addition, each of the dependent claims is also allowable as depending from allowable base Claim 1.

In view of the foregoing, the Applicant respectfully submits that Claims 1-9, 11 and 19-24 are in condition for allowance. Reconsideration and withdrawal of the rejections is respectfully requested, and a timely Notice of Allowability is solicited.

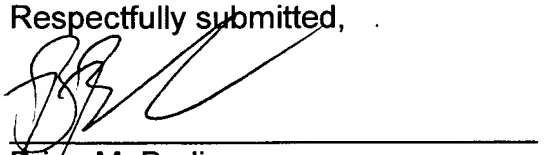
The Examiner has generated a considerable amount of text directed towards clarifying the meanings assigned to various claim terms, but without identifying any semantic issues that might require clarification, such as use of a term contrary to its ordinary meaning, or some inherent ambiguity in a claim term. These definitions, therefore, have not been particularly helpful in understanding the basis for the Examiner's rejections, and the Applicant neither traverses nor adopts any particular definition set forth by the Examiner. Should it become necessary to further clarify the meaning of a claim term, Applicant may still do so, either by acting as his own lexicographer, or in some other way.

Likewise, considerable ink has been spent by the Examiner on the issue of whether or Applicant is acting as his own lexicographer, which does not seem helpful or relevant in the absence of any confusion as to use of a particular claim term. Applicant respectfully suggests that, in the future, the prosecution of the application might be advanced more expeditiously if the Examiner were to focus instead on clearly explaining the pertinence of each reference, as required by 37 C.F.R. § 1.104 (c)(2). For example, it would be helpful to identify each specific feature or step disclosed by the references that the Examiner believes reads on particular elements of the claim. In the last office action, almost no details were provided, leaving the Applicant to guess how each reference has been applied.

If it would be helpful to placing this application in condition for allowance, the Applicant encourages the Examiner to contact the undersigned counsel and conduct a telephonic interview.

To the extent necessary, Applicant petitions the Commissioner for a three-month extension of time, extending to January 28, 2005, the period for response to the Office Action dated July 28, 2004. A check in the amount of $510.00 is enclosed for the three-month extension of time pursuant to 37 CFR §1.17(a)(3). The Commissioner is authorized to charge $790.00 for request for continued examination (RCE) pursuant to 37 CFR § 1.17(e) and any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-0639.

Respectfully submitted,



Date: January 25, 2005

Brian M. Berliner
Attorney for Applicant
Registration No. 34,549

O'MELVENY & MYERS LLP
400 South Hope Street
Los Angeles, CA 90071-2899
Telephone: (213) 430-6000